

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6048**

**BILL NUMBER:** HB 1026

**NOTE PREPARED:** Nov 1, 2011

**BILL AMENDED:**

**SUBJECT:** Support Obligations While Incarcerated.

**FIRST AUTHOR:** Rep. Cheatham

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
☒ **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill provides that a court, in establishing or modifying a child support order, is prohibited from considering a reduction or elimination of a parent's income due to the parent's incarceration.

**Effective Date:** July 1, 2012.

**Explanation of State Expenditures:** By not allowing incarcerated individuals to have their child support obligations reduced or suspended while serving prison sentences, this bill may increase the number of individuals who may be subject to additional criminal penalties for nonsupport of a dependent (under IC 35-46-1-5). Nonsupport of a dependent is a Class D felony, but may be a Class C felony if the total arrears are in excess of \$15,000.

According to the Bureau of Child Support, as of September 30, 2011, there are currently 351,805 open IV-D cases, of which, 60,291 have child support arrears of \$15,000 or more (which represents an increase from the 59,759 with arrears of \$15,000 or more from October of 2010).

*Penalty Provision:* A Class C felony is punishable by a prison term ranging from two to eight years depending upon mitigating and aggravating circumstances. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class C felony offenders is approximately two years and

for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** This bill can potentially increase the number of individuals who have child support arrearages. Increases in the number of individuals who owe child support arrearages can potentially decrease revenue the state receives from the federal IV-D program. Any change in federal funding as a result of an increase in child support arrearages in the state is indeterminable.

*Penalty Provision:* If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class C felony and a Class D felony is \$10,000. However, any additional revenues would likely be small.

*Background Information:* The federal IV-D program consists of a static amount of performance-based grants awarded to states (on a competitive basis) depending on performance regarding specified metrics. These metrics include: (1) paternity-establishment performance level, (2) support order enforcement performance level, (3) current payment performance level, (4) arrearage performance level, and (5) cost-effectiveness performance level.

Indiana's most recent performance rankings under the IV-D funding metrics for FFY 2010 are as follows: (1) 12th in paternity establishment, (2) 39th in support order establishment, (3) 34th in current support collections, (4) 19th in cases paying on arrears, and (5) 4th in cost-effectiveness. The first three metrics have more weight than the last two metrics when calculating the IV-D funding a state receives. In FFY 2009, Indiana received \$12,565,043 in IV-D funding, which was an increase from FFY 2008 of \$1,255,000.

**Explanation of Local Expenditures:** This bill may reduce court caseload to hear child support reduction requests for individuals who are incarcerated. Decreases in court caseload are unknown.

*Penalty Provision:* If more defendants are detained in county jails prior to their court hearings, local expenditures for jail operations may increase. However, any additional expenditures would likely be small.

**Explanation of Local Revenues:** *Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, the amounts would likely be small.

**State Agencies Affected:** Department of Child Services; DOC.

**Local Agencies Affected:** Local courts, county jails.

**Information Sources:** Brady Brookes, DCS; Cynthia Longest, Bureau of Child Support.

**Fiscal Analyst:** Bill Brumbach, 232-9559.